

AMENDED IN SENATE MAY 2, 2000

AMENDED IN SENATE APRIL 5, 2000

**SENATE BILL**

**No. 1865**

**Introduced by Senator Perata**

February 24, 2000

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An act to amend Sections 39153, 39675, 42400, 42400.1, 42400.2, 42400.3, 42400.6, 42402, 42402.1, 42402.2, 42402.3, 42402.5 of, to add Sections 42400.3.5 and 42402.4 to, and to repeal Section 42401 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1865, as amended, Perata. Air pollution: *civil and criminal penalties.*

(1) *Existing law requires the State Air Resources Board, air pollution control districts, and air quality management districts to adopt regulations for classifying and enforcing minor violations, and required the state board to report to the Legislature, on or before January 1, 2000, on the implementation of the regulations. Existing law also provides for the repeal of these provisions on January 1, 2001.*

*This bill would extend the date for repeal of those provisions to January 1, 2006.*

(2) Existing law prohibits the imposition of both a criminal and a civil penalty for a single violation of any order, rule, regulation, or permit of the ~~State Air Resources Board~~ *state board* or *of an* air pollution control district or *an* air quality management district relating to air quality. Existing law also

provides that the recovery of a civil penalty for an air quality violation precludes criminal prosecution, and that the filing of a criminal complaint requires the dismissal of any subsequent civil action.

This bill would delete those provisions.

(2)

(3) Under existing law, except as specified, any person who violates any statute, rule, regulation, permit, or order of the state board or of an air pollution control district or *an* air quality management district relating to air quality, as provided, is guilty of a misdemeanor and is subject to a fine, imprisonment, or both.

This bill would increase the maximum amount of the fine.

Existing law provides that any person who emits or causes the emission of an air contaminant that causes actual injury, detriment, nuisance, or annoyance to any considerable number of people, as determined by the state board, is guilty of a misdemeanor and subject to a fine, imprisonment, and a civil penalty.

This bill would create a new strict liability misdemeanor, *and would make the violator* subject to a \$25,000 fine; *and* imprisonment, and would increase the fine *for a violation that causes actual injury* to not more than \$250,000—~~for a violation that causes actual injury.~~

(3)

(4) Existing law provides that any person who negligently emits an air contaminant in violation of any rule, regulation, permit, or order of the state board or a district pertaining to emissions, to be subject to a fine, imprisonment, and a civil penalty.

This bill would expand the provision to include any person who causes the emission and would increase the maximum fine and penalty.

This bill would also provide that any person who negligently emits or causes the emission of an air contaminant that causes injury, detriment, nuisance, or annoyance to any considerable number of persons as determined by the state board is guilty of a misdemeanor and subject to a fine, imprisonment, and a civil penalty.

(4)

(5) Existing law provides that any person who emits an air contaminant in violation of any rule, regulation, permit, or order of the state board or a district pertaining to emissions, and who knew of the emission and failed to correct the violation within a reasonable period of time is subject to a fine, imprisonment, and a civil penalty.

This bill would expand the provision to include any person who causes the emission, or who owns or operates any source air contamination and would increase the maximum fine and penalty.

This bill would also provide that any person who negligently emits or causes the emission of an air contaminant that causes injury, detriment, nuisance, or annoyance to any considerable number of persons as determined by the state board, and who knew of the emission and failed to take corrective action within a reasonable time is guilty of a misdemeanor and subject to a specified fine and penalty.

~~(5)~~

(6) Existing law provides that any person who willfully and intentionally emits an air contaminant in violation of any rule, regulation, permit, or order of the state board or a district pertaining to emissions is subject to a specified fine, imprisonment, and penalty.

This bill would expand that provision to include any person who willfully and intentionally allows or causes the emission, or any person who does so with reckless disregard for the risk. This bill would also increase the maximum allowable fine and civil penalty. This bill would also provide that any person who negligently emits or causes the emission of an air contaminant that causes injury, detriment, nuisance, or annoyance to any considerable number of persons, and who does so willfully, intentionally, or with reckless disregard for the risk is guilty of a misdemeanor and subject to a specified fine and penalty.

This bill would also make any willful or intentional violation or any violation with reckless disregard for the risk, that causes actual injury or death to any person or results in an unreasonable risk of death or injury, a public offense and subject to a specified fine, imprisonment, and a civil penalty. This bill would also provide for a higher maximum allowable fine for corporate violators.



~~(6)~~

(7) Existing law authorizes the collection of a civil fine or monetary penalty for the same conduct either under specified air pollution provisions or under unfair competition provisions, but not under both.

This bill would provide for the distribution of the funds collected by those fines or monetary penalties.

~~(7)~~

(8) Existing law provides that any person who knowingly, and with intent to deceive, falsifies any document required to be kept pursuant to any rule, regulation, permit, or order of the state board or a district pertaining to emissions is subject to a civil penalty.

This bill would increase the maximum allowable penalty.

~~(8)~~

(9) Existing law provides that in addition to any criminal or civil penalty imposed for a violation of any rule, regulation, permit, or order of the state board or a district, including a district board, a district may impose an administrative civil penalty.

This bill would increase the maximum amount of that administrative penalty.

This bill would create additional crimes and would expand the scope of existing crimes, thereby imposing state-mandated local programs.

~~(9)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state,



reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 39153 of the Health and Safety*  
2 *Code is amended to read:*

3 39153. (a) On or before January 1, 2000, the state  
4 board shall report to the Legislature on actions taken by  
5 the state board and the districts to implement this  
6 chapter and the results of that implementation. Each  
7 district shall provide the state board with the information  
8 that the state board requests to determine the degree to  
9 which the purposes described in subdivision (a) of  
10 Section 39150 have been achieved.

11 (b) This chapter shall remain in effect only until  
12 January 1, ~~2001~~ 2006, and as of that date is repealed, unless  
13 a later enacted statute, ~~which~~ *that* is enacted on or before  
14 January 1, ~~2001~~ 2006, deletes or extends that date.

15 SEC. 2. Section 39675 of the Health and Safety Code  
16 is amended to read:

17 39675. (a) Sections 42400, 42400.1, 42400.2, and  
18 42402.2 apply to violations of regulations or orders  
19 adopted pursuant to Section 39659 or Article 4  
20 (commencing with Section 39665) or that are  
21 implemented and enforced as authorized by subdivision  
22 (b) of Section 39658.

23 (b) The adoption of this section does not constitute a  
24 change in, but is declaratory of, existing law.

25 ~~SEC. 2.—~~

26 SEC. 3. Section 42400 of the Health and Safety Code  
27 is amended to read:

28 42400. (a) Except as otherwise provided in Section  
29 42400.1, 42400.2, 42400.3, or 42400.4, any person who  
30 violates this part, or any rule, regulation, permit, or order  
31 of the state board or of a district, including a district  
32 hearing board, adopted pursuant to Part 1 (commencing  
33 with Section 39000) to Part 4 (commencing with Section

1 41500), inclusive, is guilty of a misdemeanor and is subject  
2 to a fine of not more than five thousand dollars (\$5,000)  
3 or imprisonment in the county jail for not more than six  
4 months, or both.

5 (b) If a violation under subdivision (a) with regard to  
6 the failure to operate a vapor recovery system on a  
7 gasoline cargo tank is directly caused by the actions of an  
8 employee under the supervision of, or of any  
9 independent contractor working for, any person subject  
10 to this part, the employee or independent contractor, as  
11 the case may be, causing the violation is guilty of a  
12 misdemeanor and is punishable as provided in  
13 subdivision (a). That liability shall not extend to the  
14 person employing the employee or retaining the  
15 independent contractor, unless that person is separately  
16 guilty of an action that violates this part.

17 (c) Any person who emits or causes the emission of an  
18 air contaminant, or who owns or operates a source that  
19 emits an air contaminant, in violation of Section 41700, is  
20 guilty of a misdemeanor and is subject to a fine of not  
21 more than twenty-five thousand dollars (\$25,000) or  
22 imprisonment in the county jail for not more than six  
23 months, or both.

24 (d) Any person who owns or operates any source of air  
25 contaminants in violation of Section 41700 that causes  
26 actual injury, as defined in paragraph (3) of subdivision  
27 (c) of Section 42400.2, to the health or safety of a  
28 considerable number of persons or the public, as  
29 determined by the state board, is guilty of a misdemeanor  
30 and is subject to a fine of not more than fifty thousand  
31 dollars (\$50,000) or imprisonment in the county jail for  
32 not more than one year, or both.

33 (e) Each day during any portion of which a violation  
34 of subdivision (a), (c), or (d) occurs is a separate offense.

35 ~~SEC. 3.—~~

36 *SEC. 4.* Section 42400.1 of the Health and Safety Code  
37 is amended to read:

38 42400.1. (a) Any person who negligently emits or  
39 causes the emission of an air contaminant in violation of  
40 any provision of this part or any rule, regulation, permit,

1 or order of the state board or of a district pertaining to  
2 emission regulations or limitations is guilty of a  
3 misdemeanor and is subject to a fine of not more than  
4 twenty-five thousand dollars (\$25,000) or imprisonment  
5 in the county jail for not more than nine months, or both.

6 (b) Any person who negligently emits or causes the  
7 emission of an air contaminant in violation of Section  
8 41700 is guilty of a misdemeanor and is subject to a fine  
9 of not more than one hundred thousand dollars  
10 (\$100,000) or imprisonment in the county jail for not  
11 more than one year, or both.

12 (c) Any person who negligently emits or causes the  
13 emission of an air contaminant in violation of Section  
14 41700 that causes an actual injury, as defined in paragraph  
15 (3) of subdivision (c) of Section 42400.2, to the health or  
16 safety of a considerable number of persons or to the  
17 public, as determined by the state board, is guilty of a  
18 misdemeanor and is subject to a fine of not more than two  
19 hundred fifty thousand dollars (\$250,000) or  
20 imprisonment in the county jail for not more than one  
21 year, or both.

22 (d) Each day during any portion of which a violation  
23 occurs is a separate offense.

24 ~~SEC. 4.~~

25 *SEC. 5.* Section 42400.2 of the Health and Safety Code  
26 is amended to read:

27 42400.2. (a) Any person who emits or causes the  
28 emission of an air contaminant, or who owns or operates  
29 any source of air contamination, in violation of any  
30 provision of this part, or any order, rule, regulation, or  
31 permit of the state board or of a district pertaining to  
32 emission regulations or limitations, and who knew of the  
33 emission and failed to take corrective action within a  
34 reasonable period of time under the circumstances, is  
35 guilty of a misdemeanor and is subject to a fine of not  
36 more than fifty thousand dollars (\$50,000) or  
37 imprisonment in the county jail for not more than one  
38 year, or both.

39 (b) For purposes of this section, “corrective action”  
40 means the termination of the emission violation or the

1 grant of a variance from the applicable order, rule,  
2 regulation, or permit pursuant to Article 2 (commencing  
3 with Section 42350). If a district regulation regarding  
4 process upsets or equipment breakdowns would allow  
5 continued operation of equipment which is emitting air  
6 contaminants in excess of allowable limits, compliance  
7 with that regulation is deemed to be corrective action.

8 (c) (1) Any person who owns or operates any source  
9 of air contaminants in violation of Section 41700 and who  
10 knew of the emission and failed to take corrective action  
11 within a reasonable period of time under the  
12 circumstances is guilty of a misdemeanor and is subject to  
13 a fine of not more than one hundred thousand dollars  
14 (\$100,000) or imprisonment in the county jail for not  
15 more than six months, or both.

16 (2) Any person who owns or operates any source of air  
17 contaminants in violation of Section 41700 that causes  
18 actual injury to the health or safety of a considerable  
19 number of persons or the public, as determined by the  
20 state board, and who knew of the emission and failed to  
21 take corrective action within a reasonable period of time  
22 under the circumstances, is guilty of a misdemeanor and  
23 is subject to a fine of not more than two hundred fifty  
24 thousand dollars (\$250,000) or ~~imprison~~ imprisonment in  
25 the county jail for not more than one year, or both.

26 (3) As used in this subdivision, “actual injury” means  
27 any physical injury that, in the opinion of a licensed  
28 physician and surgeon, requires medical treatment  
29 involving more than a physical examination.

30 (d) Each day during any portion of which a violation  
31 occurs constitutes a separate offense.

32 ~~SEC. 5.—~~

33 SEC. 6. Section 42400.3 of the Health and Safety Code  
34 is amended to read:

35 42400.3. (a) Any person who willfully and  
36 intentionally, or with reckless disregard for the risk,  
37 emits, allows, or causes the emission of an air contaminant  
38 in violation of any provision of this part or any rule,  
39 regulation, permit, or order of the state board or of a  
40 district, pertaining to emission regulations or limitations



1 is guilty of a misdemeanor and is subject to a fine of not  
2 less than five thousand dollars (\$5,000) or more than one  
3 hundred thousand dollars ( \$100,000), or imprisonment in  
4 the county jail for not more than one year, or both.

5 (b) Any person who willfully and intentionally, or with  
6 reckless disregard for the risk, emits or causes the  
7 emission of an air contaminant in violation of Section  
8 41700 is subject to a fine of not less than five thousand  
9 dollars (\$5,000) or more than two hundred fifty thousand  
10 dollars (\$250,000) or imprisonment in the county jail for  
11 not more than one year, or both.

12 (c) Any person who willfully and intentionally, or with  
13 reckless disregard for the risk, emits or causes the  
14 emission of an air contaminant in violation of Section  
15 41700 that causes actual injury to, as defined in paragraph  
16 (3) of subdivision (c) of Section 42400.2, or death of any  
17 person, or any unreasonable risk of actual injury to, or  
18 death of any person, is guilty of a public offense and is  
19 subject to a fine of not less than five thousand dollars  
20 (\$5,000) or more than two hundred fifty thousand dollars  
21 (\$250,000) or imprisonment in the county jail for not  
22 more than one year, or both, or is subject to a fine of not  
23 less than ten thousand dollars (\$10,000) or more than five  
24 hundred thousand dollars (\$500,000) or imprisonment in  
25 the state prison, or both. If the defendant is a corporation,  
26 the maximum fine may be up to one million dollars  
27 (\$1,000,000).

28 (d) Each day during any portion of which a violation  
29 occurs constitutes a separate offense.

30 (e) This section does not preclude punishment under  
31 Section 189 or 192 of the Penal Code or any other  
32 provision of law that provides a more severe punishment.

33 ~~SEC. 6.—~~

34 *SEC. 7.* Section 42400.3.5 is added to the Health and  
35 Safety Code, to read:

36 42400.3.5. (a) Any person who knowingly violates  
37 any rule, regulation, permit, order, fee requirement, or  
38 filing requirement of the state board or of a district,  
39 including a district hearing board, that is adopted for the  
40 control of toxic air contaminants pursuant to Part 1

1 (commencing with Section 39000) to Part 4  
2 (commencing with Section 41500), inclusive, and for  
3 which delegation or approval of implementation and  
4 enforcement authority has been obtained pursuant to  
5 subdivision (l) of Section 112 of the Clean Air Act (42  
6 U.S.C. Sec. 7412(l)), or the regulations adopted pursuant  
7 thereto, is guilty of a misdemeanor and is subject to a fine  
8 of not more than ten thousand dollars (\$10,000) or  
9 imprisonment in the county jail for not more than six  
10 months, or both.

11 (b) Any person who knowingly makes any false  
12 material statement, representation, or certification in any  
13 form or in any notice or report required by a rule or  
14 regulation adopted or permit issued for the control of  
15 toxic air contaminants pursuant to Part 1 (commencing  
16 with Section 39000) to Part 4 (commencing with Section  
17 41500), inclusive, and for which delegation or approval of  
18 implementation and enforcement authority has been  
19 obtained pursuant to subdivision (l) of Section 112 of the  
20 Clean Air Act (42 U.S.C. Sec. 7412(l)), or the regulations  
21 adopted pursuant thereto, or who knowingly renders  
22 inaccurate any monitoring device required by that toxic  
23 air contaminant rule, regulation, or permit is subject to a  
24 fine of not more than fifty thousand dollars (\$50,000) or  
25 imprisonment in the county jail for not more than one  
26 year, or both, or is subject to a fine of not more than one  
27 hundred thousand dollars (\$100,000) or imprisonment in  
28 the state prison, or both.

29 (c) Any person who, knowingly and with intent to  
30 deceive, falsifies any document required to be kept  
31 pursuant to any provision of this part, or any rule,  
32 regulation, permit, notice to comply, or order of the state  
33 board or of a district, is punishable as provided in  
34 subdivision (b).

35 ~~SEC. 7.—~~

36 SEC. 8. Section 42400.6 of the Health and Safety Code  
37 is amended to read:

38 42400.6. (a) Any civil fine or monetary penalty  
39 specified in Section 39674 or 42402 or subdivision (a) of  
40 Section 44381 of this code, imposed as the result of

1 conduct that is also subject to Chapter 5 (commencing  
2 with Section 17200) of Part 2 of Division 7 of the Business  
3 and Professions Code, may be collected either under  
4 those provisions of this code, or under that chapter of the  
5 Business and Professions Code, but not both.

6 (b) All criminal penalties collected pursuant to this  
7 part shall be apportioned in the following manner:

8 (1) Fifty percent shall be deposited in the Air  
9 Pollution Control Fund.

10 (2) Fifty percent shall be paid to the state board. The  
11 state board shall use the funds, upon appropriation by the  
12 Legislature, to reimburse state and local agencies in an  
13 amount up to their actual costs for investigating and  
14 prosecuting criminal cases under this part.

15 ~~SEC. 8.—~~

16 *SEC. 9.* Section 42401 of the Health and Safety Code  
17 is repealed.

18 ~~SEC. 9.—~~

19 *SEC. 10.* Section 42402 of the Health and Safety Code  
20 is amended to read:

21 42402. (a) Any person who violates this part, any  
22 order issued pursuant to Section 42316, or any rule,  
23 regulation, permit, or order of a district, including a  
24 district hearing board, or of the state board issued  
25 pursuant to Part 1 (commencing with Section 39000) to  
26 Part 4 (commencing with Section 41500), inclusive, is  
27 strictly liable for a civil penalty of not more than ten  
28 thousand dollars (\$10,000).

29 (b) Any person who emits or causes the emission of an  
30 air contaminant, or who owns or operates the source that  
31 emits an air contaminant, in violation of Section 41700, is  
32 liable for a civil penalty of not more than twenty-five  
33 thousand dollars (\$25,000).

34 (c) Any person who owns or operates any source of air  
35 contaminants in violation of Section 41700 that causes  
36 actual injury, as defined in paragraph (3) of subdivision  
37 (c) of Section 42400.2, to the health and safety of a  
38 considerable number of persons or the public, is liable for  
39 a civil penalty of not more than fifty thousand dollars  
40 (\$50,000).

(d) Each day during any portion of which a violation occurs is a separate offense.

~~SEC. 10.~~

SEC. 11. Section 42402.1 of the Health and Safety Code is amended to read:

42402.1. (a) Any person who negligently emits or causes the emission of an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000).

(b) Any person who negligently emits or causes the emission of an air contaminant in violation of Section 41700, is liable for a civil penalty of not more than one hundred thousand dollars (\$100,000).

(c) Any person who negligently emits or causes the emission of an air contaminant in violation of Section 41700 that causes actual injury, as defined in paragraph (3) of subdivision (c) of Section 42400.2, to the health and safety of a considerable number of persons or the public, as determined by the state board, is liable for a civil penalty of not more than two hundred fifty thousand dollars (\$250,000).

(d) Each day during any portion of which a violation occurs is a separate offense.

~~SEC. 11.~~

SEC. 12. Section 42402.2 of the Health and Safety Code is amended to read:

42402.2. (a) Any person who emits or causes the emission of an air contaminant, or who owns or operates any source of air contaminants, in violation of any provision of this part, or any order, rule, regulation, or permit of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty of not more than fifty thousand dollars (\$50,000).

(b) Any person who owns or operates any source of air contaminants in violation of Section 41700, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty not to exceed one hundred thousand dollars (\$100,000).

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes actual injury, as defined in paragraph (3) of subdivision (c) of Section 42400.2, to the health or safety of a considerable number of persons or the public, as determined by the state board, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000).

(d) Each day during any portion of which a violation occurs is a separate offense.

~~SEC. 12.~~

*SEC. 13.* Section 42402.3 of the Health and Safety Code is amended to read:

42402.3. (a) Any person who willfully and intentionally, or with reckless disregard for the risk, emits, allows, or causes the emission of, an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board, or of a district, including a district hearing board, pertaining to emission regulations or limitations, is liable for a civil penalty of not less than five thousand dollars (\$5,000) or more than fifty thousand dollars (\$50,000).

(b) Any person who willfully and intentionally, or with reckless disregard for the risk, emits or causes the emission of, an air contaminant in violation of Section 41700 is liable for a civil penalty of not less than five thousand dollars (\$5,000) or more than two hundred fifty thousand dollars (\$250,000).

(c) Any person who willfully and intentionally, or with reckless disregard for the risk, emits or causes the

1 emission of, an air contaminant in violation of Section  
2 41700 that causes actual injury to, as defined in paragraph  
3 (3) of subdivision (c) of Section 42400.2, or the death of  
4 any person, or any unreasonable risk of actual injury to,  
5 or the death of any person, is liable for a civil penalty of  
6 not less than five thousand dollars (\$5,000) or more than  
7 five hundred thousand dollars (\$500,000). If the violator  
8 is a corporation, the maximum fine may be up to one  
9 million dollars (\$1,000,000).

10 (d) Each day during any portion of which a violation  
11 occurs is a separate offense.

12 ~~SEC. 13.—~~

13 *SEC. 14.* Section 42402.4 is added to the Health and  
14 Safety Code, to read:

15 42402.4. Any person who knowingly and with intent  
16 to deceive, falsifies any document required to be kept  
17 pursuant to any provision of this part, or any rule,  
18 regulation, permit, or order of the state board or of a  
19 district, including a district hearing board, is liable for a  
20 civil penalty of not more than one hundred thousand  
21 dollars (\$100,000).

22 ~~SEC. 14.—~~

23 *SEC. 15.* Section 42402.5 of the Health and Safety  
24 Code is amended to read:

25 42402.5. In addition to any civil and criminal penalties  
26 prescribed under this article, a district may impose  
27 administrative civil penalties for a violation of this part,  
28 or any order, permit, rule, or regulation of the state board  
29 or of a district, including a district hearing board, adopted  
30 pursuant to Part 1 (commencing with Section 39000) to  
31 Part 4 (commencing with Section 41500), inclusive, if the  
32 district board has adopted rules and regulations  
33 specifying procedures for the imposition and amounts of  
34 these penalties. No administrative civil penalty levied  
35 pursuant to this section may exceed two thousand five  
36 hundred dollars (\$2,500) for each violation. Each day  
37 during any portion of which a violation occurs is a  
38 separate offense. However, nothing in this section is  
39 intended to restrict the authority of a district to negotiate

1 mutual settlements under any other penalty provisions of  
2 law that exceed penalties levied pursuant to this section.

3 ~~SEC. 15.~~

4 *SEC. 16.* No reimbursement is required by this act  
5 pursuant to Section 6 of Article XIII B of the California  
6 Constitution for certain costs that may be incurred by a  
7 local agency or school district because in that regard this  
8 act creates a new crime or infraction, eliminates a crime  
9 or infraction, or changes the penalty for a crime or  
10 infraction, within the meaning of Section 17556 of the  
11 Government Code, or changes the definition of a crime  
12 within the meaning of Section 6 of Article XIII B of the  
13 California Constitution.

14 However, notwithstanding Section 17610 of the  
15 Government Code, if the Commission on State Mandates  
16 determines that this act contains other costs mandated by  
17 the state, reimbursement to local agencies and school  
18 districts for those costs shall be made pursuant to Part 7  
19 (commencing with Section 17500) of Division 4 of Title  
20 2 of the Government Code. If the statewide cost of the  
21 claim for reimbursement does not exceed one million  
22 dollars (\$1,000,000), reimbursement shall be made from  
23 the State Mandates Claims Fund.

